



**FIRST NATIONS SUMMIT
STATEMENT ON THE
BC TREATY MAKING PROCESS**

**PRESENTED TO
PREMIER GORDON CAMPBELL AND
MEMBERS OF THE PROVINCIAL CABINET**

**AUGUST 17, 2001
Vancouver, BC**

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First Nations currently engaged in the British Columbia treaty making process view negotiation, rather than litigation or confrontation, as the preferred route to achieving a fair and just settlement to the long outstanding "land question" in British Columbia. From the start First Nations recognized that an effective treaty negotiation process must address key issues such as the recognition of Aboriginal title and rights, certainty, interim measures, compensation and self government.

Since 1991, shortly after the Province of British Columbia finally agreed to participate in treaty making, the primary focus of the First Nations Summit has been to ensure the treaty process moves forward. The Summit remains steady in its resolve, despite obstacles created by Canada and British Columbia, to ensure the treaty process moves ahead in a manner that does not compromise our fundamental principles.

The First Nations Summit is pleased to have an opportunity to meet with the Premier and provincial Cabinet and see this as a chance to state our interests and to lay the foundation for cooperative efforts with the provincial government that will benefit our people and British Columbia in general.

Following are issues of importance to First Nations currently in the treaty negotiations process. We consider all issues to be important but our primary concern at this time is the status of negotiations.

Status of Negotiations

While negotiations have begun or are beginning at all tables, the extremely limited mandate read by provincial negotiators seems designed to kill the BC treaty process. We have been advised by First Nations that until further notice the new provincial mandate prohibits provincial negotiators from discussing any of the following key issues at treaty tables:

- Self-government and the sources for self government
- general provisions and all related legal issues
- fiscal relations
- taxation
- constitutional status of Land
- the inclusion of fee simple lands as Treaty Settlement Lands on a willing seller/willing buyer basis
- First Nation management or co-management of resources

The removal of substantive issues from the tables severely impedes the negotiations process. Stripping provincial negotiators of any opportunity to discuss anything substantive is unconscionable. Discussions on the substantive issues must begin now.

Governance

As First Nations we have the inherent right, responsibility and authority to govern within our territories and to exercise jurisdiction over our citizens wherever they are. Treaties must recognize that each First Nation has its own distinct culture, history and governance. First Nations' views on both the scope and nature of their systems of governance and law-making powers must be fully reflected in their treaties. The recognition of First Nations as governments with clearly acknowledged and defined jurisdiction in key areas is absolutely essential.

As well, a single governance model or template cannot be imposed upon on all First Nations.

Treaties must also acknowledge that First Nations' government authority will continue to be recognized and affirmed in section 35 of the *Constitution Act, 1982*, which states

"The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed" and, further

"For greater certainty... 'treaty rights' includes rights that now exist by way of land claims agreements or may be so acquired."

The provincial government's intention of negotiating "a delegated, municipal style of self-government" with any First Nation is unacceptable and problematic for First Nations.

Interim Measures

It is important to the integrity of the treaty process that the provincial government commits and agrees to having effective interim measures negotiated at all treaty tables as a way of showing good faith and confidence in the process.

The Summit acknowledges that British Columbia has amended one of its most problematic policies (i.e. the BC government now agrees that interim measures to protect land and resources can be negotiated at any stage of the treaty process). However, the Summit is unsatisfied with the limited range of interim measures opportunities available to First Nations.

Regular meetings between the Premier and the First Nations Summit Task Group

In the June 22, 2001 meeting between the premier and Summit Task Group it was agreed that regularly scheduled monthly or bi-monthly meetings will take place between the premier and the Summit Task Group to discuss treaty negotiations and other issues of concern to First Nations. The premier also committed to bring key cabinet ministers to these meetings on an as needed basis. The Summit looks forward to these sessions and engaging in productive dialogue.

Principals Meetings

The First Nations Summit sees the need for regular communications among the Principals to the treaty process to ensure that major issues and problems are addressed in a timely manner. The Summit is committed to attending quarterly Principals meetings. We are pleased that Premier Campbell has committed to have Minister Geoff Plant attend quarterly Principals meetings.

BC Treaty Commission

The current structure of the BC Treaty Commission should be reviewed to determine its effectiveness as “Keeper of the Process.” Currently the BC Treaty Commission has no legislative authority over parties in the negotiations process and can only use moral persuasion to try and keep negotiations on track.

The BC Treaty Commission should be given legislative authority to assist them in truly being a ‘Keeper of the Process’. Expanded powers could include dispute resolution authority. First Nations also suggest possibly having the responsibility for allocating treaty negotiation support funding shifted from the BC Treaty Commission to allow for the Commission to more effectively facilitate the negotiations process.

Provincial Referendum on Treaty Negotiations

We encourage the provincial government to reverse its plans for a referendum. We urge the provincial government to recommit to the principles for negotiations that were mutually agreed to many years ago by the governments of British Columbia and Canada and First Nations in the form of the 19 recommendations of the BC Claims Task Force Report.

We cannot overemphasize how divisive a referendum would be. Instead we suggest an alternative in which we would very likely participate. This exercise could be coordinated by the BC Treaty Commission or by a Task Force with nominations from each of the three Principals.

The provincial government and the other two parties to the process, the federal government and First Nations, could review the 19 principles that were accepted, re-examine them, advertise them, and consult with as many people as possible in the province of British Columbia about them.

This could certainly restart the process in a positive manner. It would at least be a positive step that would achieve the consultation that the premier says is required even though the treaty process has been open to the public and completely transparent from the beginning.

At no time in our collective history has a British Columbian government ever treated First Nations with the respect and dignity they deserve. Your government now has the opportunity to be the first. However, if your government hopes to achieve this, you must remember that the only people who know what is best

for Aboriginal peoples' future are the Aboriginal people themselves.

We cannot underscore enough the seriousness of the situation. As days pass with no apparent movement in the treaty process, First Nations are being forced to consider all options to protect their interests, including the possibility of more court actions, injunctions and civil disobedience. We urge your government to work quickly to dismantle the numerous obstacles presently facing First Nations in the treaty process.

First Nations are willing to work to establish a new relationship with the provincial government. First Nations entered this process of negotiation honourably and with the desire to shape a different and better future for us all - one in which we will live together peacefully as neighbours. It is time to be creative and innovative and we know that if offered the opportunity, First Nations people in British Columbia can work with your government to create a better place for us all.